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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,500	09/30/1999	GLEN J. ANDERSON	450.282US1	5455

24333 7590 03/17/2003

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EXAMINER

MCCHESNEY, ELIZABETH A

ART UNIT PAPER NUMBER

2644

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/409,500

Applicant(s)

ANDERSON, GLEN J.

Examiner

Elizabeth A McChesney

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: |



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Art Unit: 2644

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1 and 16** are rejected under 35 U.S.C. 102(b) as being anticipated by Dobbins (US Patent No. 5,815,586).

Regarding **claim 1**, Dobbins discloses an apparatus, which audibly transmits instructions to the user (col. 1-lines 12-14). The apparatus is a medicine container that has a closure which has a means for actuating the recording, a storage means for retaining the recorded instructions, a speaker 31 and set of controls, for example, record button 28, play button 30 and display 54 (see figure 1). The processor is inherently taught by the function of recording, retaining the instructions and playing back upon activation.

Regarding **claim 16**, it is interpreted and thus rejected for the same reasons as set forth above in claim 1. Since claim 16 discloses a method, which corresponds to, the apparatus of claim 1; the method is obvious in that it simply provides functionality for the structure of claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 4, 22, 23 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable Dobbins (US Patent No. 5,815,586).

Regarding claim 4, Dobbins discloses everything claimed as applied above (see claim 1). Dobbins discloses a display 54. It would have been obvious to one of ordinary skill in the art to display the instruction number and/or label for the user to verify and clarify the present instruction they are listening to.

Regarding **claim 22**, Dobbins discloses everything claimed as applied above (see claim 16). See Examiner's comments regarding claim 4.

Regarding **claim 23**, Dobbins discloses providing a user with a set of audio instructions for taking medication. However it would have been obvious to one of ordinary skill to provide a user with instructions for other devices wherein the instructions are audibly heard when activated upon.

Regarding **claim 28**, Dobbins discloses everything claimed as applied above (see claim 23). See Examiner's comments regarding claim 4.

Claim Rejections - 35 USC § 103

5. **Claims 1, 3, 6-14, 16, 18-21 and 23-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell (US Patent No. 5,577,918).

Regarding **claim 1**, Crowell discloses an audible message delivery system, which would be useful for providing audible recordings in place of a written message or even written instructions (col. 8-lines 7-9). The audible recording would therefore be an equivalent to, say instructions in writing and would be helpful in giving such instructions to a child or someone who is unable to read. Crowell further discloses the device, which is capable of receiving and retaining (col. 2-lines 55-56) an audible message and which reads on a memory and processor that is inherently taught by the function of recording, retaining a message and playing back upon activation. Crowell further discloses an activation switch wherein the message is delivered when activated. Crowell further shows a speaker 28 in figure 1 for output of the audible message. Crowell discloses controls for operation of the audio message such as a play switch 30, record switch 31 and a pause switch (not shown) for greater flexibility and control.

Regarding **claim 3**, Crowell discloses everything claimed as applied above (see claim 1). Crowell discloses controls for operation of the audio message such as a play switch 30, record switch 31 and a pause switch (not shown). It would have been obvious to one of ordinary skill in the art to include various other controls that are not shown for greater flexibility and control of the audio system (col. 6-lines 31-36).

Regarding **claims 6 and 7**, Crowell discloses everything claimed as applied above (see claim 1). Crowell discloses a number of applications for the audible

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message (col. 3-lines 23-34 and 59-65). The audio message therefore can be used for added clarity wherever written messages or instructions are used. The setup for a computer system provides written instructions and therefore would have been obvious to provide audio instructions for added enhancement (col. 3-lines 65-67).

Regarding **claim 8**, Crowell discloses everything claimed as applied above (see claim 1). Crowell discloses an alternate embodiment wherein the audible message is inserted into an envelope for mailing (col. 12-lines 19-29 and see figure 17).

Regarding **claims 9 and 10**, Crowell discloses an audible message delivery system that is affixed to number of applications for the audible message (col. 3-lines 23-34 and 59-65). It would have been obvious for one of ordinary skill in the art to affix such a device to anything that would require a message or instructions. A computer system is delivered in a box with the computer and the necessary components, which include written instructions wherein the audible delivery device would be used in combination with the written instructions or as an equivalent form of receiving instructions.

Regarding **claim 11**, Crowell discloses everything claimed as applied above (see claim 10). Crowell discloses an audible message delivery system, which would be useful for providing audible recordings in place of a written message or even written instructions (col. 8-lines 7-9). The audible recording would therefore be an equivalent to, say instructions in writing and would be helpful in giving such instructions to a child or someone who is unable to read. Crowell further discloses the device, which is capable of receiving and retaining (col. 2-lines 55-56) an audible message and which

reads on a memory and processor that is inherently taught by the function of recording, retaining a message and playing back upon activation. Crowell further discloses an activation switch wherein the message is delivered when activated. Crowell further shows a speaker 28 in figure 1 for output of the audible message. Crowell discloses controls for operation of the audio message such as a play switch 30, record switch 31 and a pause switch (not shown) for greater flexibility and control.

Regarding **claim 12**, see Examiner's comments regarding claim 2.

Regarding **claim 13**, see Examiner's comments regarding claim 3.

Regarding **claim 14**, see Examiner's comments regarding claim 4.

Regarding **claims 16 and 23**, it is interpreted and thus rejected for the same reasons as set forth above in claim 1. Since claims 16 and 23 disclose a method, which corresponds to, the apparatus of claim 1; the method is obvious in that it simply provides functionality for the structure of claim 1.

Regarding **claims 18 and 24**, Crowell discloses everything claimed as applied above (see claim 16). Crowell discloses a record button in which additional instructions could be added when necessary as for example receiving a model with more components.

Regarding **claims 19-21 and 25-27**, see Examiner's comments regarding claim 3.

Claim Rejections - 35 USC § 103

6. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell (US Patent No. 5,577,918) in view of Galloway et al. (US Patent No. 4,611,262).

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Regarding **claim 2**, Crowell discloses the audible message in a greeting card. Crowell fails to specifically disclose that the speaker is a piezoelectric speaker. However, piezoelectric speakers are well known in the art and are commonly used in applications such as a greeting card or other small areas, as piezoelectric speakers are very lightweight and flat. Galloway et al. discloses greeting cards that play a small tune, which include small circuit boards with piezoelectric speakers attached (col. 1-lines 12-18). It would have been obvious for one of ordinary skill in the art to have used a piezoelectric speaker for the speaker disclosed by Crowell as the audible message delivery system is flat and lightweight and is attached to various applications.

Claim Rejections - 35 USC § 103

7. **Claims 5, 15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell (US Patent No. 5,577,918) in view of Britton (US Patent No. 5,853,372).

Regarding **claim 5**, Crowell discloses everything claimed as applied above (see claim 1). Crowell further discloses activating switch 30 wherein LED 29 can be constructed to be illuminated whenever play activation switch 30 is pressed activates the message delivery circuit 22. However Crowell does not specifically disclose a photo diode. Britton discloses a photo-diode is activated by light applied thereto to generate a current. Therefore it would have been obvious for one of ordinary skill in the art to include a photo diode as the activation switch wherein when the flap is lifted in the reference taught by Crowell the exposure to light would activate the switch thereby

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activating the message delivery system and illuminating the LED for activation mode
(col. 4-lines 22-24).

Regarding **claim 15**, see Examiner's comments regarding claim 5.

Regarding **claim 17**, see Examiner's comments regarding claim 5.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. McChesney whose telephone number is (703) 308-4563. The examiner can normally be reached Monday – Friday, 8:00 am – 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:


(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

EAM *EAM*
March 8, 2003


FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600